(To Resolve Conflicts)

B-Engrossed
House Bill 2233

Ordered by the Senate June 30
Including House Amendments dated June 10 and Senate Amendments
dated June 30 to resolve conflicts

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Attorney General Hardy Myers for Attorney General's Restitution Reform Task Force)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Provides that judgment in criminal action containing award of restitution does not expire until 50 years after entry of judgment.

Requires Director of Employment Department, at request of United States Attorney's Office, to make available individual's employment and wage information for purpose of collecting civil and criminal judgments. Requires United States Attorney's Office to bear costs of providing information.

Modifies rate of interest on judgments in criminal actions.

A BILL FOR AN ACT

Relating to judgments; creating new provisions; and amending ORS 18.048, 18.075, 18.180, 18.194, 137.183, 156.220 and 657.670.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 18.180 is amended to read:

18.180. (1) Judgment remedies for a judgment expire upon full satisfaction of the money award portion of the judgment.

(2) If a judgment lien arises out of a support award under ORS 18.150 (3) or 18.152 (3), a support arrearage lien attaching to real property under the judgment lien expires upon satisfaction of the unpaid installment that gave rise to the support arrearage lien.

(3) Except as provided in ORS 18.180 to 18.192, judgment remedies for a judgment in a civil action expire 10 years after the entry of the judgment.

(4) **Except as provided in this subsection,** judgment remedies for a judgment in a criminal action expire 20 years after the entry of the judgment. **Judgment remedies for a judgment in a criminal action that includes a money award for restitution expire 50 years after the entry of the judgment.**

(5) Except as provided in ORS 18.192, judgment remedies for the child support award portion of a judgment, and any lump sum money award for unpaid child support installments, expire 25 years after the entry of the judgment that first establishes the support obligation.

(6)(a) Except as provided by paragraph (b) of this subsection and ORS 18.190, judgment remedies for any unpaid installment under the spousal support award portion of a judgment, including any installment arrearage lien arising under the judgment, expire 25 years after the entry of the judgment that first establishes the support obligation, or 10 years after an installment comes due under

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

the judgment and is not paid, whichever is later.

(b) The judgment lien for the spousal support award portion of a judgment that is entered on or after January 1, 2004, including any installment arrearage lien arising under the judgment, expires 25 years after the entry of the judgment that first establishes the support obligation unless a certificate of extension is filed under ORS 18.185.

(7)(a) If a money award in a judgment under ORS 107.105 (1)(f) provides for a future payment of money, and the future payment does not become due for 10 or more years after the judgment is entered, judgment remedies for the portion of the judgment providing for future payment expire 10 years after the date on which the future payment becomes due. At any time before the judgment remedies for a money award described in this subsection expire, judgment remedies for the portion of the judgment providing for a future payment may be extended as provided in ORS 18.182.

(b) This subsection does not apply to support awards.

(8) This section does not apply to justice courts, municipal courts or county courts performing judicial functions.

SECTION 2. ORS 18.075 is amended to read:

18.075. (1) A judgment is entered in circuit court when a court administrator notes in the register that a judgment document has been filed with the court administrator.

(2) Subject to ORS 18.058 (2), when a judge files a judgment document with the court administrator, the court administrator shall note in the register:

(a) That the judgment document has been filed and the day, hour and minute that the judgment is entered.

(b) Whether the judgment is a limited judgment, a general judgment or a supplemental judgment.

(c) Whether the judgment includes a money award.

(d) Whether the judgment creates a judgment lien under ORS 18.150.

(3) If the court administrator notes in the register that a judgment creates a judgment lien, the court administrator shall note in a separate record maintained by the court administrator:

(a) The name of all judgment debtors.

(b) The name of all judgment creditors.

(c) The amount of the money award.

(d) Whether the money award is a support award **or an award of restitution**.

(4) If the court administrator makes a notation of judgment in the separate record required by subsection (3) of this section, the court administrator shall thereafter also note in the separate record:

(a) The date on which any appeal is filed.

(b) Whether a supersedeas undertaking, as defined in ORS 19.005, is filed.

(c) The date of any decision on appeal.

(d) Any execution issued by the court and the return on any execution.

(e) Any satisfaction of the judgment, when entered.

(f) Other such information as may be deemed necessary by court order or court rule.

(5) The court administrator shall enter a judgment in the register within 24 hours after the judgment document is filed with court administrator, excluding Saturdays and legal holidays. If the court administrator is not able to enter the judgment within the time prescribed in this subsection, or fails to do so, the court administrator shall enter the judgment as soon as practicable thereafter.

(6) Except as provided in ORS 18.058, and in ORCP 69 B(1) for judgments by default, the court administrator shall be subject to the direction of the court in entering judgments in the register.

(7) The court administrator shall not delay entry of judgment under ORCP 68 for taxation of attorney fees or costs and disbursements.

(8) Administrative orders entered in the register under ORS 416.440 have the effect provided for in that section.

(9) The State Court Administrator shall ensure that the register, and the separate record required by subsection (3) of this section, be established and maintained in a uniform manner in the circuit courts.

(10) References in Oregon Revised Statutes to docketing of a judgment are equivalent to entry of a judgment as described in subsection (1) of this section.

(11) This section does not apply to justice courts, municipal courts or county courts performing judicial functions.

SECTION 3. ORS 18.048 is amended to read:

18.048. (1) If a judgment document in a criminal action contains a money award, whether by reason of a fine, restitution, forfeiture of security under ORS 135.280, a fee, an assessment, costs and disbursements or any other monetary obligation, and the judgment is for conviction of a felony or misdemeanor, the court administrator shall note in the register that the judgment creates a judgment lien if the judgment document complies with this section. If the judgment is for conviction of a violation as described in ORS 153.008, the court administrator shall note in the register that the judgment creates a judgment lien only if the court has ordered that the judgment create a judgment lien.

(2) As a condition of creating a judgment lien, the judgment document for a judgment in a criminal action that includes a money award must contain a separate section setting forth the money award, must meet the requirements of ORS 18.038 and must contain the following information:

(a) A listing of the specific amounts awarded as fines, assessments, costs, restitution and any other monetary obligations imposed in the sentence as part of the money award. If the court is unable to determine the full amount of restitution at the time of sentencing, the court may include the amount that can be determined or may establish a maximum amount.

(b) If restitution or a compensatory fine is ordered, the name and address of the person to whom the court should disburse payments, unless the victim requests that this information be exempt from disclosure in the public record.

(c) A statement that, subject to amendment of a judgment under ORS 137.107, money required to be paid as a condition of probation remains payable after revocation of probation only if the amount is included in the money award portion of the judgment document, even if the amount is referred to in other parts of the judgment document.

(d) Unless immediate payment is required, the specific terms of payment imposed or allowed by the court.

(e) If payment of all or part of a monetary obligation is suspended, a statement specifying the nature and amount of the suspended obligations.

(3) The separate section required by subsection (2) of this section must be placed immediately above the judge's or court administrator's signature. The separate section must be clearly labeled at its beginning as a money award. If the judgment includes an award of restitution, the label of the separate section must so indicate.

[*(3)*] **(4)** The requirements of this section and ORS 18.038 do not apply to a judgment document if the action was commenced by the issuance of a uniform citation adopted under ORS 1.525 and the

court has used the space on the citation for the entry of a judgment. The exemption provided by this subsection does not apply if any indictment, information or complaint other than a uniform citation is filed in the action.

[*(4)*] **(5)** A judgment in a criminal action that contains a money award is a judgment in favor of the state and may be enforced only by the state.

SECTION 3a. If House Bill 2359 becomes law, section 3 of this 2005 Act (amending ORS 18.048) is repealed and ORS 18.048, as amended by section 13, chapter _____, Oregon Laws 2005 (Enrolled House Bill 2359), is amended to read:

18.048. (1) Except as provided in this section, the judgment document in a criminal action that contains a money award, whether by reason of a fine, restitution, forfeiture of security under ORS 135.280, a fee, an assessment, costs and disbursements or any other monetary obligation, must contain a separate section clearly labeled **at its beginning** as a money award. **The separate section must be placed immediately above the judge's or court administrator's signature. If the judgment includes an award of restitution, the label of the separate section must so indicate.**

(2) The separate money award section described by subsection (1) of this section must contain the following information:

(a) A listing of the specific amounts awarded as fines, assessments, costs, restitution and any other monetary obligations imposed in the sentence as part of the money award. If the court is unable to determine the full amount of restitution at the time of sentencing, the court may include the amount that can be determined or may establish a maximum amount.

(b) If restitution or a compensatory fine is ordered, the name and address of the person to whom the court should disburse payments, unless the victim requests that this information be exempt from disclosure in the public record.

(c) A statement that, subject to amendment of a judgment under ORS 137.107, money required to be paid as a condition of probation remains payable after revocation of probation only if the amount is included in the money award portion of the judgment document, even if the amount is referred to in other parts of the judgment document.

(d) Unless immediate payment is required, the specific terms of payment imposed or allowed by the court.

(e) If payment of all or part of a monetary obligation is suspended, a statement specifying the nature and amount of the suspended obligations.

(3) The requirements of this section and ORS 18.038 do not apply to a judgment document if the action was commenced by the issuance of a uniform citation adopted under ORS 1.525 and the court has used the space on the citation for the entry of a judgment. The exemption provided by this subsection does not apply if any indictment, information or complaint other than a uniform citation is filed in the action.

(4) If a judgment is for conviction of a violation as described in ORS 153.008, the judgment creates a lien only if the court so orders. If a judgment does not create a lien under this subsection, the judgment document need not contain the separate money award section described by subsection (1) of this section.

(5) A judgment in a criminal action that contains a money award is a judgment in favor of the state and may be enforced only by the state.

SECTION 4. ORS 18.194 is amended to read:

18.194. (1) Judgment remedies for a judgment in justice and municipal courts expire upon full satisfaction of the money award portion of the judgment.

(2) Except as provided in this section, judgment remedies for a judgment in a civil action **in a justice or municipal court** expire 10 years after the entry of the judgment.

(3) **Except as provided in this subsection,** judgment remedies for a judgment in a criminal action **in a justice or municipal court** expire 20 years after the entry of the judgment. **Judgment remedies for a judgment in a criminal action in a justice or municipal court that includes a money award for restitution expire 50 years after the entry of the judgment.**

(4) Judgment remedies for a judgment in justice or municipal court may be extended by filing a certificate of extension in the court that entered the judgment. The clerk shall enter the certificate in the docket of the court. A judgment creditor may file a certificate of extension only if:

(a) Judgment remedies for the judgment have not expired; and

(b) A full satisfaction document for the money award portion of the judgment has not been filed.

(5) Notwithstanding subsection (4) of this section, if the judgment debtor has been discharged from debt under federal bankruptcy laws, a certificate of extension may not be filed except as provided in this subsection. Judgments are presumed to have not been discharged in bankruptcy until the judgment debtor establishes that the judgment has been discharged. If the judgment debtor is discharged from a debt, a certificate of extension may be filed if:

(a) The debtor owned real property and the judgment lien attached to that property before the filing of the bankruptcy petition;

(b) The judgment lien was not avoided by action of the bankruptcy court;

(c) The judgment lien has not been discharged under ORS 18.238; and

(d) The certificate of extension includes a legal description of the real property and a statement that the extension affects only the lien on the real property described in the certificate.

(6) If a certificate of extension is filed under this section after the date on which the judgment remedies for the judgment expire, the certificate has no effect.

(7) The judgment remedies for a judgment that are extended under the provisions of this section expire 10 years after the certificate of extension is filed. Judgment remedies for a judgment may be extended only once under the provisions of this section.

(8) A certified copy of a certificate of extension, or a lien record abstract for the certificate, may be recorded in any county in which the judgment was transcribed or recorded as provided in ORS 52.635 or 221.351, with the effect provided by ORS 18.152 (4).

(9) The judgment remedies for a judgment in a criminal action may not be extended under this section.

SECTION 5. ORS 156.220 is amended to read:

156.220. Except as provided in ORS 18.048 [*(3)*] **(4)**, any judgment rendered by a justice court on an offense that imposes a monetary obligation must contain the separate section required by ORS 18.048 (2).

SECTION 5a. If House Bill 2359 becomes law, section 5 of this 2005 Act (amending ORS 156.220) is repealed.

SECTION 6. ORS 657.670 is amended to read:

657.670. Notwithstanding ORS 657.665, the Director of the Employment Department shall:

(1) Upon request, submit such reports, in such form and containing such information as the Secretary of Labor may, from time to time, require, and shall comply with such provisions as the Secretary of Labor may, from time to time, find necessary to [*assure*] **ensure** the correctness and verification of [*such*] **the** reports.

(2) Make available, upon request, to any agency of the United States charged with the admin-

istration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment insurance benefits and a statement of [*such*] **the** recipient's right to further compensation under this chapter.

(3) Make available, upon request, to officers and employees of the United States Department of Agriculture and any state's food stamp agency, information to be used for determining an individual's eligibility for benefits, or the amount of benefits, under the food stamp program established under the Food Stamp Act of 1977. The information provided [*shall be*] **is** confidential and [*shall*] **may** not be used for any other purpose. **The United States Department of Agriculture shall bear the** costs of furnishing information under this [*section*] **subsection** [*shall be borne by the United States Department of Agriculture*].

(4) Make available, upon request, to the United States Attorney's Office an individual's employment and wage information for the purpose of collecting civil and criminal judgments, including restitution and special assessment fees. The information provided is confidential and may not be used for any other purpose. The United States Attorney's Office shall bear the costs of furnishing information under this subsection.

SECTION 7. ORS 137.183 is amended to read:

137.183. **Notwithstanding ORS 82.010,** judgments in criminal actions bear interest at the rate of [*nine*] **12.5** percent per annum from the date of entry of the judgment **for the first five years and four percent per annum thereafter**. The clerk of the court shall calculate interest on each category of monetary obligation established by ORS 137.295 for the purpose of distribution of the interest in the manner provided in ORS 137.295. Interest shall accrue monthly on the first day of each month, beginning with the first day of the second full calendar month after the monetary obligation first becomes due.

SECTION 8. (1) The amendments to ORS 18.048, 18.075, 18.180 and 18.194 by sections 1 to 4 of this 2005 Act apply to judgments entered on or after the effective date of this 2005 Act.

(2) The amendments to ORS 137.183 by section 7 of this 2005 Act apply to judgments entered on or after the operative date of ORS 137.183.